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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/886,965	06/21/2001	Russell L. Kress	Kress 400	5029

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[REDACTED] EXAMINER

HORTON, YVONNE MICHELE

[REDACTED] ART UNIT [REDACTED] PAPER NUMBER

3635

DATE MAILED: 05/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No. <b>09/886,965</b>	Applicant(s) <b>RUSSELL L. KRESS</b>
Examiner <b>YVONNE M. HORTON</b>	Art Unit <b>3635</b>

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1)  Responsive to communication(s) filed on Feb 19, 2003.

2a)  This action is FINAL. 2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

### Disposition of Claims

4)  Claim(s) 1-11, 13-15, 17-20, 24, 25, and 28-52 is/are pending in the application.

4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) 1-10, 13, 18, 19, 28-32, 34-40, and 42-52 is/are allowed.

6)  Claim(s) 11, 14, 15, 17, 20, 24, 25, 33, and 41 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)  The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)  All b)  Some\* c)  None of:

1.  Certified copies of the priority documents have been received.
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

a)  The translation of the foreign language provisional application has been received.

15)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

1)  Notice of References Cited (PTO-892)

4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)

5)  Notice of Informal Patent Application (PTO-152)

3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_

6)  Other: \_\_\_\_\_

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## **DETAILED ACTION**

### ***Withdrawal of Previously Indicated Subject Matter***

1. The indicated allowableness of claims 21-23 is withdrawn in view of a more careful review of the reference(s) to GB 1,048,690. Rejections based on the newly cited reference(s) follow.

### ***Claim Rejections - 35 USC § 103***

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 11,14,15,17,20,24-25,33 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over GB 1,048,690 in view of US Patent#5,043,369 to BAHN et al. GB 1,048,690 discloses the use of a modular living enclosure including a plurality of molded plastic sections (12,13) defining a door (D), a floor (F), a top (20,21,24,44), and four upright walls (16,17,31,32,39,40,41), see the marked attachment. Regarding claim 11, the module of GB 1,048,690 discloses the use of at least a shower head (38) and a floor drain, page 2, lines 92-97. In reference to claims 20 and 24, the modular arrangement GB 1,048,690 discloses portions (9-11,33,42) are molded portions of the module that are not explicitly detailed as being “seating surfaces” per se’, but would have been obvious to one having ordinary skill in the art that the portions (9-11,33,42) could very well be “sat on” or used as a surface to seat or rest while using the modular unit. GB 1,048,690 discloses the basic claimed enclosure except for the use of ceramic particulate-filled resin material. BAHN et al. teaches that it is known in the art to form an article from a ceramic particulate material. Thus, it would have been obvious to one having

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ordinary skill in the art at the time the invention was made to form the enclosure of GB 1,048,690 from the ceramic particulate of BAHN et al. in order to create a structure that is very strong and durable. In regards to claims 11,14,20 and 24, the enclosure (12,13) includes a bathroom fixture (2,38) including a washbasin, page 2, lines 28 and 59. In reference to claim 15, although GB 1,048,690 does not explicitly teach the use of a conduit and sump chamber, it does however, disclose the use of a water tank (28). It would have been obvious to one having ordinary skill in the art at the time the invention was made that the enclosure of GB 1,048,690 includes a conduit and sump chamber. Regarding claim 17, GB 1,048,690 discloses the use of a floor drain, page 2, line 91-96, and plumbing. In reference to claim 25, it would have been obvious to one having ordinary skill in the art at the time the invention was made to also form the interior walls of GB 1,048,690 out of the abrasion resistant ceramic particulate of BAHN et al. in order to create a bathroom module that is not only strong and durable but that is light weight, water resistant and that is smooth to the touch of bare skin. Regarding claim 33, although GB 1,048,690 does not explicitly teach the use of a thermostat, it does however disclose the use of a water tank (shown in broken lines at 28 in Figure 5) and a shower fitting (38). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made that the enclosure would include a thermostat in order to regulate the water temperature. Regarding claim 41, although GB 1,048,690 only shows one enclosure, it would have been obvious to one having ordinary skill in the art at the time the invention was made that several modular enclosures could be assembled, since the mere duplication of essential working parts

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involve only routine skill in the art. Further, the flanges (36,37) would make it apparent that adjacent units could be interconnected via these flanges (36,37).

***Allowable Subject Matter***

4. Claims 1-10,13,18,19,28-32 and 34-52 are allowed.
5. The following is a statement of reasons for the indication of allowable subject matter:

***Response to Arguments***

6. Applicant's arguments filed 2/19/03 have been fully considered but they are not persuasive.

In regards to the applicant's argument that GB 1,048,690 does not teach the use of a thermostat, the examiner agrees that there is no teaching of a thermostat. However, the examiner has clarified her position in regards to an explanation of the obviousness behind providing a thermostat with the module of GB 1,048,690, see the above rejections.

In reference to the applicant's argument that there is no suggestion to combine one or more of the modules of GB 1,048,690, the mere duplication of essential parts of an invention involves only routine skill in the art. Although not suggested in GB 1,048,690, it would have been obvious to one having ordinary skill in the art at the time the invention was made that the a number of adjacent units could very clearly be attached via flanges (36,37).

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***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne M. Horton whose telephone number is (703) 308-1909.

YMH



May 8, 2003



Carl D. Friedman  
Supervisory Patent Examiner  
Group 3600